THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22924 of 1995

Dated:14.11.2006

Between
The Depot Manager, APSRTC.,
Kushaiguda Depot, Hyderabad.

.....Petitioner

and

1.The Labour Court-III, Hyderabad
rep., by its Presiding Officer,
and another.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22924 of 1995

ORDER:

This writ petition is directed against an award dated 13.7.1994 passed in I.D.No.437 of 1992 on the file of the 1st respondent-Labour Court-III, Hyderabad.

It appears that the 2nd respondent was appointed as a conductor in Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') in 1972. At the relevant point of time, he was attached to Kushaiguda Depot, Hyderabad. On 20.1.1989, while he was conducting the bus, a check was conducted, in which it was found that he committed cash and ticket irregularities. After conducting a detailed enquiry into the matter, the 2nd respondent was removed from service *vide*

order dated 14.8.1989. Aggrieved by the same, he preferred an appeal and the appellate authority by an order dated 12.2.1990 confirmed the removal order. Therefore, the 2nd respondent raised a dispute under Section 2 (A) (2) of Industrial Disputes Act before the 1st respondent.

According to the 2nd respondent-workman, when he was conducting the bus on 20.1.1989 on route No.15, at stage No.6/5, three illiterate passengers boarded into the bus and offered him fifty rupee note for issuance of three tickets of 0.75 ps., each. As he was not having sufficient change, he requested the passengers to pay him the exact ticket fare and in the meantime the bus reached stage No.4, where the checking officials boarded the bus and conducted a check. He has explained the circumstances under which there was a delay in issuance of tickets. However, the checking officials have issued a memo. Thereafter, a detailed enquiry was conducted and he was removed from service. According to the 2nd respondent, the removal order passed by the

petitioner-Corporation is neither proper nor just apart from being disproportionate to that of the irregularities alleged against him.

The petitioner-Corporation filed a detailed counter stating that as the charges framed against the 2nd respondent are grave in nature and proved, the only punishment, for which the 2nd respondent-workman deserves was removal from service and therefore, such punishment was imposed. Neither the punishment of removal from service was harsh nor it is correct to say that the enquiry conducted by the Corporation was not proper.

No oral evidence was adduced on behalf of both sides. On behalf of the petitioner-Management Exs.M1 to M16 were marked. No documents were marked on behalf of 2nd respondent-workman.

After an elaborate consideration of the entire material placed before it, the 1st respondent-Labour Court held that no doubt the disciplinary authority

has every right to take disciplinary action and impose adequate punishment but the law restricts the authority from imposing arbitrary punishment. There is no mention in the show cause notice that in view of the past misconduct and having earlier punishments, it is essential to impose the ultimate punishment of removal from service. Apart from it, there is no separate charge to consider the past records. Before imposing an ultimate punishment, the delinquent is to be given an opportunity to explain his past misconduct but no such opportunity was given to the 2nd respondent. The principle involved under Section 11-A of the Industrial Disputes Act is that the punishment should be commensurate with the gravity of the charge.

The punishment of removal from service is disproportionate to that of the misconduct alleged against the workman. Therefore, the 1st respondent directed the petitioner-Corporation to reinstate the 2nd respondent-workman into service with continuity

of service but without back wages and further as a measure of punishment, directed to stop one increment for a period of one year with cumulative effect and denied the attendant benefits.

The 1st respondent-Labour Court felt even assuming that the 2nd respondent-workman has committed misconduct, it was only Rs.4/- and the same was collected by the officials, thereafter tickets were issued to the passengers and there was no past misconduct against the petitioner for imposing grave punishment of removal from service. Hence, I am of the opinion that the 1st respondent has not committed any error calling for interference of this Court. The writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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14-11-2006

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